

A. E. WHITE, ET UX.

IBLA 76-674 Decided November 12, 1976

Appeal from the denial of a petition to reinstate oil and gas lease W-49664-C, terminated for nonpayment of annual rental.

Affirmed.

1. Oil and Gas Leases: Reinstatement—Oil and Gas Leases: Termination

An oil and gas lease which has terminated by operation of law for failure to pay the annual rental on or before the due date may not be reinstated unless, among other things, payment has been tendered at the proper office within 20 days of the anniversary date.

APPEARANCES: A.E. White and Willa A. White, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

The Wyoming State Office of the Bureau of Land Management has denied appellants' petition to reinstate oil and gas lease W-49664-C, which terminated when the advance annual rental was not received on or before the anniversary date. Termination of the lease is automatic in such cases by operation of law, 30 U.S.C. § 188(b) (1970), and regulation 43 CFR 3108.2-1(a), and not by the deed or decision of any federal officer or employee.

[1] Petitions for reinstatement may be considered only if the payment due is paid or tendered at the proper office within 20 days of the anniversary date. 30 U.S.C. § 188(c) (1970); 43 CFR 3108.2-1(c).

The anniversary date when the rental was due in this instance was April 1, 1976. No payment was received by the Wyoming State Office until June 7, 1976. Appellants have explained that another check in the full amount was mailed on March 19, 1976, but that check was not negotiated. In a letter dated May 7, Mrs. White

inquired about the status of the lease, noting that the check had not cleared and no receipt had been returned by the Bureau of Land Management. This letter was received by the Wyoming State Office on May 10, 1976, at which time it was already too late to comply with the statutory requirement for reinstatement. Nevertheless, appellants stopped payment on the original check and tendered a second check on June 7, along with a photocopy of their record of checks issued to show the issuance of the earlier check.

However, as noted above, the law requires that payment be tendered within 20 days of the anniversary date to qualify a petition for reinstatement for consideration. This Department is precluded by law from granting reinstatement in any case where this condition has not been met. Merilyn K. Buxton, 24 IBLA 269 (1976); Aaron V. Barson, 18 IBLA 156 (1974); Amoco Production Co., 16 IBLA 215 (1974); Texas Eastern Transmission Corp., 14 IBLA 361 (1974); W. R. Murfin, 13 IBLA 97 (1973).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing
Administrative Judge

We concur.

Joseph W. Goss
Administrative Judge

Frederick Fishman
Administrative Judge

